

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DANIEL J. SIMMS,

Petitioner,

v.

REED HOLTGEERTS,

Respondent.

CASE NO. C06-1255-RSL

ORDER OF DISMISSAL

The Court, having reviewed petitioner's § 2254 habeas petition, the Report and Recommendation of the Honorable Monica J. Benton, United States Magistrate Judge, and the remaining record, does hereby find and ORDER:

- (1) The Court adopts the Report and Recommendation;
- (2) Petitioner's § 2254 habeas petition is DENIED, and this action is DISMISSED without prejudice; and
- (3) The Clerk is directed to send copies of this Order to petitioner and to the Hon. Monica J. Benton.

DATED this 2<sup>nd</sup> day of November, 2006.



Robert S. Lasnik  
United States District Judge

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